



## Senate

General Assembly

**File No. 605**

January Session, 2005

Substitute Senate Bill No. 975

*Senate, May 2, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING STANDING CRIMINAL RESTRAINING ORDERS AND THE PENALTY FOR CRIMINAL VIOLATION OF A RESTRAINING ORDER.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 53a-40e of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2005*):

4 (a) If any person is convicted of a violation of section 53a-59, 53a-  
5 59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-71,  
6 53a-72a, 53a-72b, 53a-181c, 53a-181d, [or] 53a-181e or 53a-223, or of  
7 attempt or conspiracy to violate any of said sections or section 53a-54a,  
8 against a family or household member, as defined in subdivision (2) of  
9 section 46b-38a, the court may, in addition to imposing the sentence  
10 authorized for the crime under section 53a-35a, if the court is of the  
11 opinion that the history and character and the nature and  
12 circumstances of the criminal conduct of such offender indicate that a

13 standing criminal restraining order will best serve the interest of the  
14 victim and the public, issue a standing criminal restraining order  
15 which shall remain in effect until modified or revoked by the court for  
16 good cause shown.

17 Sec. 2. Section 53a-223b of the general statutes is repealed and the  
18 following is substituted in lieu thereof (*Effective October 1, 2005*):

19 (a) A person is guilty of criminal violation of a restraining order  
20 when (1) (A) a restraining order has been issued against such person  
21 pursuant to section 46b-15, or (B) a foreign order of protection, as  
22 defined in section 46b-15a, has been issued against such person, after  
23 notice and an opportunity to be heard has been provided to such  
24 person, in a case involving the use, attempted use or threatened use of  
25 physical force against another, and (2) such person, having knowledge  
26 of the terms of the order, (A) does not stay away from a person or  
27 place in violation of the order, (B) contacts a person in violation of the  
28 order, (C) imposes any restraint upon the person or liberty of a person  
29 in violation of the order, or (D) threatens, harasses, assaults, molests,  
30 sexually assaults or attacks a person in violation of the order.

31 (b) Criminal violation of a restraining order is a class [A  
32 misdemeanor] D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	53a-40e(a)
Sec. 2	<i>October 1, 2005</i>	53a-223b

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill increases the penalty for criminal violation of a restraining order. There are approximately 100 such convictions annually. To the extent that this change increases the likelihood that these offenders would receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

**OLR Bill Analysis**

sSB 975

**AN ACT CONCERNING STANDING CRIMINAL RESTRAINING ORDERS AND THE PENALTY FOR CRIMINAL VIOLATION OF A RESTRAINING ORDER****SUMMARY:**

The bill permits a court to issue a standing criminal restraining order when a person is convicted of criminal violation of a protective order. Like such orders issued in other cases, the court must find that the (1) victim is a member of the offender's family or household member and (2) the order will best serve the victim and public's interest given the history, character and nature, and circumstances of the crime. By law, standing criminal restraining orders are effective until they are modified or revoked by the court.

The bill increases the penalty for criminal violation of a restraining order from a class A misdemeanor to a class D felony, thus, making the penalty the same as that for criminal violation of a protective order or a standing criminal restraining order. A class A misdemeanor is punishable by up to one year in prison, a \$2,000 fine, or both. A class D felony is punishable by up to five years in prison, a \$5,000 fine, or both.

EFFECTIVE DATE: October 1, 2005

**BACKGROUND*****Standing Criminal Restraining Order***

Courts issue these orders in certain criminal cases to protect crime victims from future harm. The orders may, among other things, prohibit the offender from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home. The criminal cases covered are:

1. first- and second-degree assault;
2. first- and second-degree assault of an aged, blind, disabled,

- pregnant, or mentally retarded person;
3. second- and third-degree assault with a firearm;
  4. second-degree assault with a firearm of an aged, blind, disabled, pregnant, or mentally retarded person;
  5. first-, second-, and third-degree sexual assault;
  6. aggravated first-degree sexual assault;
  7. sexual assault in a spousal or cohabitating relationship; and
  8. stalking.

### ***Family or Household Member***

“Family or household members” are spouses, former spouses, parents and their children, people age 18 or older related by blood or marriage, people age 16 or older either living together or who have lived together, people who have a child together, and people in or formerly in a dating relationship.

### ***Restraining and Protective Orders***

Restraining and protective orders are court-issued, civil and criminal orders, respectively, typically issued to protect victims of family violence crimes from threatened or further harm. These orders may, among other things, prohibit the respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim’s home. Restraining orders are generally effective for six months. Protective orders are a condition of bail or other release from incarceration.

### ***Related Bills***

sSB 34, also reported favorably by the Judiciary Committee, permits courts to issue protective orders in first- and second-degree harassment cases.

sSB 1324, reported favorably by the Judiciary Committee, allows judges to issue emergency protective hours after court hours.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0